(4)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH
AT BILASPUR

W.P.No. 1832/2006 SINGLE BENCH

Petitioner :

N.P.Biskia
S/o Shri G.P.Biskia, Aged about 55 years, Working as Sub Divisional Officer (Forest), Birgudi, Distt. Dhamtari R/o Nagri Forest Colony, Dhamtari, Distt. Dhamtari (C.G.)

P.R. No. 1883/06
Presented by Shri Rama Das
dated 5/11/06

Versus

Respondents :

1) State of Chhattisgarh – Through the Special Secretary, Forest Department, DKS Bhawan, Raipur (C.G.)

2) The Divisional Forest Officer, Dhamtari, District – Dhamtari (CG)

3) Shri R.C.Meshram, Asstt. Conservator of Forest, posted in the office of PCCF, Forest Department, Raipur (C.G.)

RE COPY (W) 5.11.06 GLEANED A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XJ-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक WP 2533/06 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

12.5.2006

Shri Anand Kumar Tiwari, Advocate for the petitioner in W.P. No.2533/06 and for respondent No.3 in W.P. No.1832/06.

Shri P. Diwakar, Sr. Advocate with Shri Kunal Das, Adv. for the petitioner in W.P. No.1832/06 and for respondent No.5 in W.P. No.2533/06.

Shri Sanjay Kumar Agarwal, Panel Lawyer for the State.

Writ Petition No.1832/06 filed by petitioner-N.P. Biskia and Writ Petition No.2533/06 filed by petitioner-Ram Charan Meshram are being disposed of by this common order, as both the petitions relate to same controversy.

Learned P.L. for the State very frankly submits that no reply on behalf of the respondent-State is needed in these writ petitions.

Petitioner-N.P. Biskia preferred W.P. No.1832/06 questioning the legality, propriety & correctness of the order dated 9.3.2006 (Annexure P-1) whereby he was transferred from the post of Sub Divisional Officer (Forest), Sub-Division Birguidi, District Dhamtari to the office of Principal Chief Conservator of Forest, Forest Department, Raipur and petitioner in W.P. No.2533/06 Shri Ram Charan Meshram, was transferred in his place. The grounds taken by the petitioner were that the transfer was not possible on account of ban period, same was politically motivated and was a mid term transfer.

It is settled law that transfer is an incidence of service and same can only be questioned, on the ground of mala fide, being against

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the statutory rules or the authority who passed the order was not competent to pass the order.

As far as the ground of mid-session is concerned, the examination is already over, even results are out and today is 12.5.2006, therefore, that ground does not stand. As far as the ban period is concerned, the impugned order itself shows that the same was passed with the approval of the Chief Minister of the State, therefore, the State Government passed order by relaxing the ban. As far as political motivation is concerned, there is nothing on record by which it can be held that how it was politically motivated and moreover, during the course of arguments learned Panel Lawyer for the State submits that Shri Biskia was working on the said post since 2001 and thereby he has almost completed 5 years tenure, which is two years more than the normal tenure of posting of a public servant on a particular post. Therefore, I do not find any substance in this writ petition, same is liable to be dismissed and it hereby dismissed.

As far as W.P. No.2533/06 filed by Ram Charan Meshram is concerned, as has been mentioned earlier, he was posted as Sub Divisional Officer (Forest) Sub-Division Birgudi, Dhamtari vide order dated 9.3.2006 and when he was not allowed to join on the said post, perforce he filed a petition before this Court to ensure the compliance of the order dated 9.3.2006 and in pursuance of the court's order dated 25.4.2006 he was allowed to join on the said post.

Thereafter, the Special Secretary, Forest Department, Govt. of C.G. vide order dated 2.5.2006 cancelled the transfer order of the

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आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

petitioner dated 9.3.2006. On the face it shows that this order was passed just to circumvent the court's order dated 25.4.2006 passed in writ petition filed by Ram Charan Meshram directing Shri L.N. Suryavanshi to ensure the compliance of earlier order dated 9.3.2006.

As has been mentioned in the writ petition of Shri N.P. Biskia that he was continuing since about 5 years on the same post and that is why he was transferred and the petitioner was posted at that place and now impugned order dated 2.5.2006 (Annexure P-8) is passed in order to circumvent the order of this Court dated 25.4.2006, therefore, this order deserves to be quashed.

In the result, W.P. No.2533/06 filed by Ram Charan Meshram is allowed and the order dated 2.5.2006 passed by the Special Secretary, Govt. of C.G., Forest Department is hereby quashed.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

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